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10/563,108

01/03/2006

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EXAMINER

NIESZ, JASON KAROL

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/563,108 | Applicant(s) PASQUALI ET AL. | |
| | Examiner JASON K. NIESZ | Art Unit 3751 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/03/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 01/03/2006 was considered by the examiner.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of filler units from claims 10 and 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 10-14, 16, 18, 24-27 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by De Villele (US Patent 6,772,806 B2).

In Re claim 1 with reference to Figure 2 De Villele discloses equipment for filling containers comprising a supporting structure (13), a first outlet (7.1) connected to a first tank (6.1) and a second outlet (7.2) connected to a second tank (6.2). De Villele also discloses a motion inducing means (16).

In Re claim 10 with reference to Figure 2 De Villele discloses a carousel (5) (Column 2, lines 36-37) comprising a plurality of the filler units (Figure 1, 7.1 and 7.2) disclosed in Re claim 1.

In re claims 11, 12, 13, and 16 with reference to Figure 2 De Villele discloses a weighing platform (11, 14) coupled to a controlling computer (Figure 1, 9), which controls the filling operation (Column 2, lines 46-58).

In Re claim 14 with reference to Figure 2 De Villele discloses a clamp means (15).

Claim 18 is anticipated De Villele as applied to claim 10 above.

Claims 24-26 and 29 are anticipated by De Villele as applied to claims 11-13, and 16 respectively above.

Claim 27 is anticipated by De Villele as applied to claim 14 above.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR-A-2,630,425.

In Re claim 1 with reference to Figure 8 '425 discloses equipment for filling containers comprising a supporting structure (23, 45) for at least one container (31), a first outlet (37), a second outlet (38), and a motion inducing means (conveyor driver, Abstract) by which the supporting structure is rendered capable of movement relative to the first and second dispensing outlets between a first position, in which the first such

outlet is placed in alignment at least with a mouth of the container, and a second position, in which the second outlet is placed in alignment with the mouth of a container.

'425 doesn't disclose a first and second tank.

It is commonly known in the art to use a tank as a source of material to be dispensed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a first and second tank in conjunction with the first and second outlets, in order to provide a source of material to be dispensed.

8. Claims 15 and 28 rejected under 35 U.S.C. 103(a) as being unpatentable over De Villele.

In Re claim 15 De Villele as applied to claim 10 above discloses all the limitations, but doesn't disclose attaching the supporting structure removably to the carousel. It is commonly known in the art that machine components can be made removable to facilitate repair or replacement. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the supporting structure removably to the carousel, for the reasons suggested above of facilitating repair or replacement.

In Re claim 28 De Villele as applied to claim 18 above discloses all the limitations, but doesn't disclose attaching the supporting structure removably to the carousel. It is commonly known in the art that machine components can be made removable to facilitate repair or replacement. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the

supporting structure removably to the carousel, for the reasons suggested above of facilitating repair or replacement.

9. Claims 1-12, 16, 17, 18-24, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Villele in view of Folde (US Patent 3,845,794).

In Re claim 1 De Villele discloses all the limitations. In Column 4, lines 4-9 De Villele discloses an alternate embodiment wherein the support members are mounted to pivot about a vertical axis. De Villele does not disclose a motion inducing means to generate this rotation and the motion inducing means used for sliding motion in the primary embodiment is clearly not adapted for this purpose. With reference to Figure 6 Folde discloses a motion inducing means (10) comprising a fluid cylinder connected pivotably at one end to a flange associated with a frame and at the other to a flange associated with a container supporting structure. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the De Villele device by adding the motion inducing means from Folde, in order to provide a mechanism for rotating the container between the two filling positions.

In Re claim 2 the motion inducing means in the modified De Villele in view of Folde device is actively associated with the supporting structure in order to provide the required rotation.

In Re claim 3 the alternate embodiment listed in De Villele (Column 4, lines 4-9) would have to rotate about an axis extending substantially parallel to the axis of the container in order to properly position the container for both stages of filling.

In Re claims 4 and 5 De Villele in view of Folde as applied to claim 3 above discloses all the limitations, but doesn't disclose hinging the supporting structure at a point equidistant between the first and second outlet. However, it would have been obvious to one of ordinary skill in the art to manufacture the supporting structure from the De Villele device to rotate about its existing connection point (Figure 2, 11), in order to eliminate the need to design an alternate pivoting support for the container.

In Re claims 6-9 the examiner notes that the motion inducing means from Folde is a fluid power actuator comprising a cylindrical housing and a movable rod connected pivotably to mounting flanges on the frame and container supporting structure respectively (Figure 6, 10, 60). the examiner further notes that the use of this motion inducing means necessarily results in said fluid power actuator moving angularly during extension and retraction.

In Re claim 10 De Villele in view of Folde as applied to claim 1 above discloses all the limitations, De Villele further discloses a carousel (5) (Column 2, lines 36-37) equipped with a plurality of the filler units (Figure 1, 7.1 and 7.2) described in Re claim 1.

In re claims 11, 12 and 16 with reference to Figure 2 De Villele discloses a weighing platform (11, 14) coupled to a controlling computer (Figure 1, 9), which controls the filling operation (Column 2, lines 46-58).

In Re claim 17 De Villele in view of Folde as applied to claim 16 above discloses all the limitations, but doesn't disclose an actuating unit associated with the motion inducing means. However, De Villele discloses the use of a controller in conjunction

with a weighing platform to control the filling operation (Column 2, lines 46-58). It would have been obvious to one of ordinary skill in the art that moving a container from a first filling position under one nozzle to a second filling position under a second nozzle represents a portion of the filling operation which must be controlled. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the controlling device from De Villele actuate the motion inducing means from Folde when the weighing platform indicates that a predetermined amount of product has been dispensed into the container, in order to accurately fill the container with the desired amount of both components.

Claim 18 is rendered obvious by the prior art applied to claim 10 above.

In Re claim 19 the motion inducing means in the modified De Villele in view of Folde device is actively associated with the supporting structure in order to provide the required rotation.

In Re claim 20 the alternate embodiment listed in De Villele (Column 4, lines 4-9) would have to rotate about an axis extending substantially parallel to the axis of the container in order to properly position the container for both stages of filling.

In Re claims 21 and 22 De Villele in view of Folde as applied to claim 20 above discloses all the limitations, but doesn't disclose hinging the supporting structure at a point equidistant between the first and second outlet. However, it would have been obvious to one of ordinary skill in the art to manufacture the supporting structure from the De Villele device to rotate about its existing connection point (Figure 2, 11), in order to eliminate the need to design an alternate pivoting support for the container.

In Re claim 23 the examiner notes that the motion inducing means from Folde is a fluid power actuator comprising a cylindrical housing and a movable rod connected pivotably to mounting flanges on the frame and container supporting structure respectively (Figure 6, 10, 60).

In Re claims 24 and 29 with reference to Figure 2 De Villele discloses a weighing platform (11, 14) coupled to a controlling computer (Figure 1, 9), which controls the filling operation (Column 2, lines 46-58).

In Re claim 30 De Villele in view of Folde as applied to claim 29 above discloses all the limitations, but doesn't disclose an actuating unit associated with the motion inducing means. However, De Villele discloses the use of a controller in conjunction with a weighing platform to control the filling operation (Column 2, lines 46-58). It would have been obvious to one of ordinary skill in the art that moving a container from a first filling position under one nozzle to a second filling position under a second nozzle represents a portion of the filling operation which must be controlled. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the controlling device from De Villele actuate the motion inducing means from Folde when the weighing platform indicates that a predetermined amount of product has been dispensed into the container, in order to accurately fill the container with the desired amount of both components.

10. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Villele in view of Yoshida et al. (US Patent 4,703,609).

In Re claim 31 De Villele as applied to claim 18 above discloses all the limitations and further discloses the product tanks being carried by the carousel (see Figures 1 and 2), but doesn't disclose a hollow casing or first and second couplings.

De Villele is silent on exactly how the nozzles (Figure 2, 7.1 and 7.2) are attached to the tanks. Couplings are commonly known in the art as a way to attach components in a fluid system.

With respect to Figure 1 Yoshida discloses a double walled liquid tank (1, 2) for providing insulation to a fluid which must be kept at a low temperature during filling (Column 5, lines 7-10). It can be seen from Figure 2 in De Villele that both tanks (6.1, 6.2) share a single outer wall.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a hollow casing around the shared outer wall of the both of the tanks in the De Villele device, as taught by Yoshida, in order to provide insulation for the products being dispensed. Furthermore, it would have been obvious to attach the filling nozzles to the tanks using couplings, in order to facilitate detaching and reattaching said nozzles for repair or replacement.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bloch et al. (US Patent 5,000,661) discloses a container filling apparatus which uses a fluid power cylinder to position a container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON K. NIESZ whose telephone number is (571)270-3920. The examiner can normally be reached on mon-fri 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason K Niesz
Examiner
Art Unit 3751

/Timothy L Maust/
for Gregory Huson, SPE of Art Unit 3751